

FEATURE BY JOSHUA STEIN AND DONALD H. OPPENHEIM

Easy Ways to Misuse Your Computer

PCs and legal practice aren't always a great match.

Learn when, where, why and how lawyers should *not* use computers.

Computers have become as essential to lawyers as legal pads, law books and quill pens once were. Most lawyers sit at a computer much of the day, communicating, writing, researching and organizing. Though indispensable, computers have limits—which lawyers often forget. This is not to say that you should stop using your computer. That's not an option. You can, however, avoid some pitfalls if you first understand them.

Write First, Think Later

Many lawyers want to handle any situation by typing something into the



computer—a memo, a letter, a formal demand, a quick e-mail—before they think through the facts or the strategy.

The desire of many clients to see their lawyers quickly “do something” only increases the pressure. In turn, no lawyer wants to leave a written communication unanswered.

Those dynamics, coupled with “e-mail everywhere,” thanks to the BlackBerry and other mobile devices, mean a dozen increasingly urgent and nasty messages can change hands in less time than it would have taken to make a phone call, get more information, think about the right response, and perhaps correct a misunderstanding and defuse tensions.

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SITE WATCH WITH DANIEL S. COOLIDGE

What's the Law of Torts in Tasmania?

If you're looking for something, anything, that's law related, there are few more complete resources than Hieros Gamos, www.hg.org. You'll find links to the usual suspects, such as federal and states' law and court cases, but there's *much* more. Want information about the law in East Timor? Looking for bar associations in western Kentucky? Need the complete agriculture department correspondence of Gambia from 1934 to 1970? No problem. Here's your resource. Hieros Gamos is not so much a search engine as it is a portal to other search engines, with a well-organized list of topics and countries to help guide your thinking without unnecessarily limiting it. The site also offers resources for finding lawyers in other countries, listing your own firm and its lawyers, and accessing a large variety of online forms for purchase.



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If you stop and think, you may realize you don't have all the facts and should ask questions and think about responses instead of immediately generating some written communication on your computer.

Lost Training Opportunities

Great training opportunities often arise when a senior lawyer and a junior lawyer think through, write and perfect a substantial written project tailored for a client. Not long ago, this collaboration took the form of working through a draft document and discussing it line by line. Today, the junior lawyer will

tions, information searches and more. Track the time you spend surfing the Web at work for personal pursuits (your firm's technology department already may), and you will be amazed at how much time you lose. The Web alone may explain why you can account for only seven or eight billable hours when you were at your desk for twelve and feel exhausted.

The process often starts when you need a quick work-related answer from the Web. Instead of just providing the answer so you can go back to work, the Web lures you to browse around, check your stocks, see what's new on some site

sions to make everything look right.

Net results: (1) the client pays, or refuses to pay, several hundred dollars an hour for nonlegal work; and (2) the lawyer loses time better spent on other things—such as dictating a short letter and letting a secretary set up the page, confirm names and handle other tedious clerical details.

Shallow Review of Serious Written Work

Lawyers often review documents on the computer screen, not on paper. The ever-increasing volume of drafts, documents and e-mail transmissions almost forces lawyers to do this, particularly when coupled with constant "touching base" to see if the recipient has reviewed an e-mail attachment that arrived three to five minutes before.

Usually, though, one can't read documents on a computer screen as carefully as on paper. On a screen, one can't readily write notes, flip through a document and related documents and understand how they fit together, or quickly compare pages and identify inconsistencies. Computer screens promote shallow and relatively careless reading and thinking.

Distractions, Distractions and More Distractions

Most lawyers feel compelled to keep up with their flood of incoming e-mail—perhaps because if they don't, they know it will take them days to catch up. As a result, they often read e-mail even during a telephone conversation or, worse, an in-person conversation. Web surfing offers much the same temptation.

The lawyer's lack of engagement in the conversation, and the resulting long pauses, will soon reveal to the other party that the lawyer isn't paying attention. At that point, the conversation may

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often write the first draft and e-mail it to the senior lawyer, who reviews, edits and returns it, much as a dry cleaner presses and returns a pair of pants.

This may produce a well-pressed pair of pants or a well-written document, but it skips the interaction that will help the junior lawyer do a better job next time. "Submit and return" gives the junior lawyer no chance to understand the senior lawyer's thought process, rejected alternatives, reasons for those rejections and other judgments. The junior lawyer might compare the first draft against the last, trying to learn from the differences. But when this happens (rarely), it shows only the beginning and end, not the crucial thought process between them.

Worldwide Waste of Time

Most lawyers use the Web for personal matters—shopping, travel reserva-

and so on. Before you know it, a quick work-related inquiry has become 20 minutes of browsing.

Moreover, flipping and flopping back and forth between work and personal Web surfing can produce a very unfocused and distracted work effort—much like turning off your car's engine and restarting it at every traffic signal.

Overpaid Word Processors

Lawyers who edit their own work often perform routine word processing better done by others. It begins with: "I just want to make a quick couple of changes; I might as well do them myself." Before long, those couple of changes blossom into dozens of changes taking more than an hour. Worse, lawyers might feel tempted to festoon documents with fonts, creative spacing, special effects and the like—requiring endless revi-

as well end. This is unfortunate, because the conversation might well have been more important. And it's rude.

Speed Kills

Thanks to computers, clients expect to receive work quickly. Meeting a short deadline will often produce an even shorter deadline next time. Each time the lawyer manages to "do the job and get the deal closed." In the long run, though, the quality of the work may suffer just because of a lack of time to do the job right.

Thus the speed of your computer can ultimately impair the quality of your legal work.

Legal Research with Blinders On

Computerized legal research often begins and ends with a search for particular words. If you choose the right words and the right place to look, you might find what you need. If you don't (or if the right place to look is offline), you may never find the best resources.

Lawyers who go to the library for 20 minutes may find they can research a topic more broadly. Browsing the shelves, they learn about a range of related books, resources unavailable online and written work they never knew existed. If this treasure trove does not help today, it might help tomorrow. But lawyers will never know about it unless they browse a bit in the library.

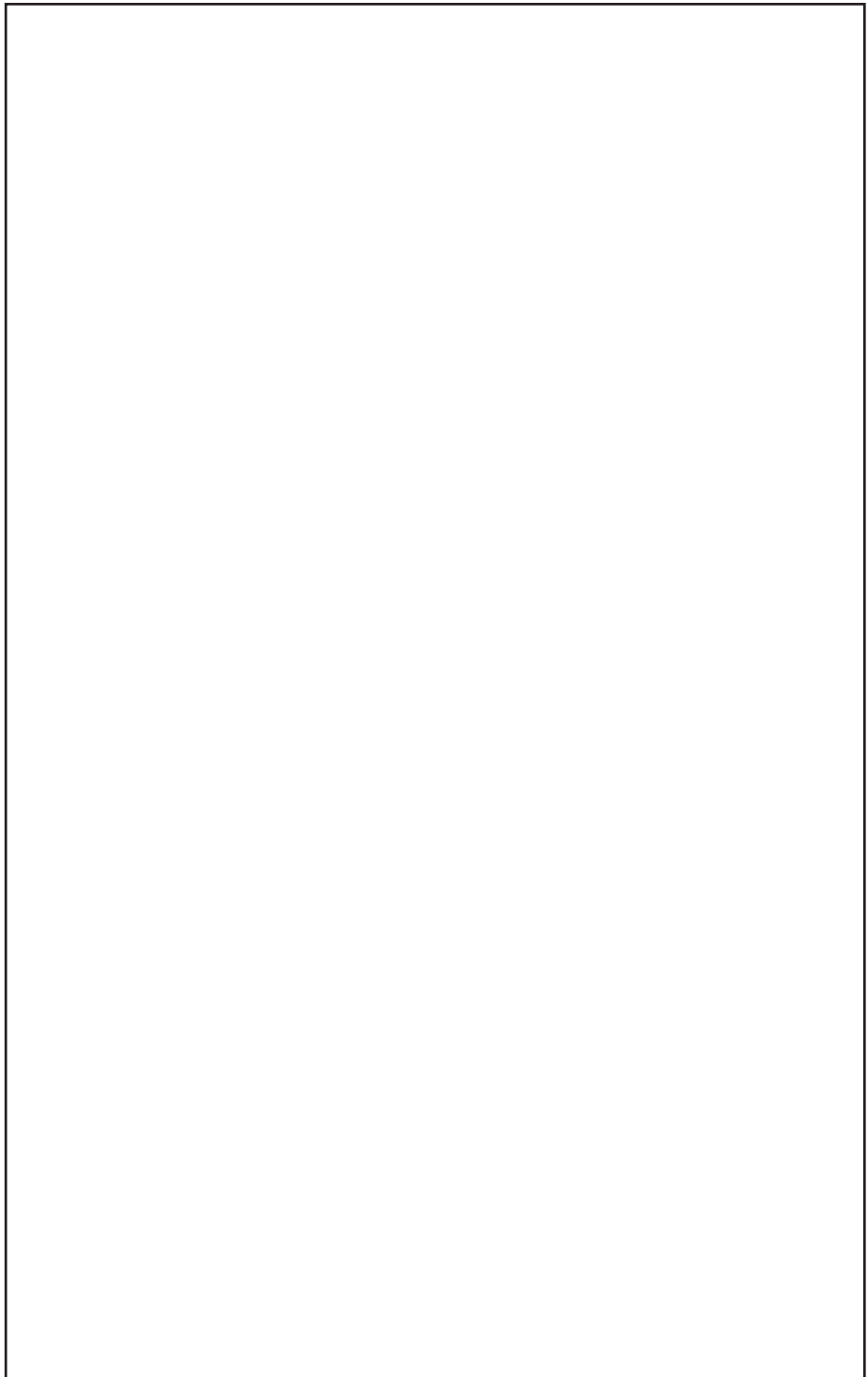
In a recent project, for example, the computer led a young lawyer to some cases and a line of analysis. But that was only a fraction of what the lawyer really needed. The research pointed only to cases, while the best way to master the issues would have been to look at a new supplement to a leading treatise. If the lawyer had done (or supplemented) the same research in the library, she would have seen the treatise and an update volume. She also would have seen other

books with chapters on the issues she researched, including some books totally unknown to her software.

As libraries continue to shrink and

research resources continue to travel from shelves onto CD-ROMs and the Internet, legal research will only become narrower.

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Lawyers in Isolation

More and more lawyers tend to work in their own offices, hunched over their computer terminals, communicating around the world and producing documents at the speed of light. As a consequence, the legal profession has become less collaborative, less friendly and more lonely.

Successful rainmakers, though, are often anything but lonely inmates of a cell shared only with their computers. Instead of being computer junkies, they are “people oriented.” They step out into the larger world and interact with colleagues, clients and prospective clients, escaping from the narrow view of the world their computers give them.

Number Crunchers?

Most lawyers are clods when it comes to working on spreadsheets. They do a bad job, take too long and often add no value.

Accountants and sometimes paralegals will almost universally do a better, and less expensive, job on spreadsheets.

Sloppiness and Lack of Training

In today’s quick transactions, documents constantly travel from person to person for editing. Ideally, this occurs through a document management system, so different people are not simultaneously editing different versions of the document. Even without such a system, anyone working on a document must remember that someone else will almost certainly edit it later. A law firm should, therefore, set standards for how documents will be named, formatted and so on.

Lawyers are, however, notoriously impatient about learning such rules. They think law school and legal practice have taught them all they need to know about everything. They make up the rules of word processing as they go.

The result: document chaos; multiple versions floating around, being edited by multiple people at the same time; sloppy and random formatting in a document so the next person who edits it must first clean up the mess; all followed by predictable lawyerly finger-pointing when something goes wrong, as it usually does.

The “Quick and Dirty” Job

Computers make it easy for lawyers to do a bit of work and pretend they’ve done the entire job. If the parties want to change “agent” to “lender” in a loan agreement, a lawyer with rudimentary word processing skills can take under two seconds to search and replace the term. Virtually the entire document will look right.

But new mistakes will almost certainly be introduced. Every use of “agent” that should have stayed “agent” will now say “lender.” A definition may be out of order. Index entries may be wrong. The word “an” will appear where it should have become “a.” If the transaction is moving along at the usual 150 miles an hour, the lawyer might not look for, or even think of, these glitches.

This represents a petty example of computer-driven “quick and dirty” work. Many other examples arise constantly. When a lawyer quickly adds someone to the contact management database but doesn’t check any information, it may lead to future mistakes. (It also represents an inappropriate use of a lawyer’s time.) When a lawyer quickly copies a model document and doesn’t read the whole thing to make sure it works, this creates needless future work. And so it goes, on and on throughout the day.

The Perils of E-mail

Numerous articles have noted the risks of e-mail. (See, e.g., Joshua Stein, “How

to Manage the E-Mail Deluge: Controlling the Chaos,” *Law Practice Management*, November/December 2000.) The risks extend from simple embarrassment to giving away one’s trial strategy to committing malpractice. E-mail is an extraordinarily dangerous communications medium when used incorrectly. Even in the best of circumstances, it is a very static medium. Once you begin to communicate your message, you can’t change it. E-mail gives you a severely limited communications channel as compared to, say, an “old-fashioned” conversation.

To control the risks of e-mail, you should (as in so many other areas of computer usage) think before communicating and resist the urge to move quickly just because the computer allows it.

Missing the Forest for the Weeds

When lawyers act as counselors, the skills they need are thinking, looking at “the big picture,” listening closely (not just for plain meaning), considering alternatives, and giving clients the benefit of experience beyond knowing how to write and edit.

When lawyers use computers, they often don’t focus on the forest—not even on the trees—but instead on the weeds between the trees, details endlessly tempting to think about and make perfect. On their knees lining up those weeds, lawyers don’t consider that they might be in the wrong forest—or that the forest has caught fire. ▮

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